



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2023-0861]

RIN 1625-AA87

Security Zones; San Francisco Bay, San Francisco, CA

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary security zones in the navigable waters of the San Francisco Bay, and the Pacific Ocean within the San Francisco Captain of the Port (COTP) zone. The security zones are along San Francisco Pier 15/17, approximately 1,000 yards from shore, and the Legion of Honor, approximately 450 yards from shore. The security zones are necessary to protect the harbors, ports, and waterfront facilities during a visit from high-ranking government officials and members of the official party. Entry of vessels or persons into these zones is prohibited unless specifically authorized by the Captain of the Port San Francisco or a designated representative.

DATES: This rule is effective from November 15, 2023, through November 18, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2023-0861 in the search box and click "Search." Next, in the Document Type column, select "Supporting & Related Material."

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email LT William Harris, U.S. Coast Guard Sector San Francisco, Waterways Management Division; telephone 415-399-7443, email SFWaterways@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and contrary to the public interest. The Coast Guard was not notified with ample time to allow for public comment. The visit by high-ranking government officials and members of their official party will conclude prior to the publication and completion of a comment period. Additionally, it is impracticable to publish a NPRM because the visit is scheduled to occur from November 15 through November 16, 2023, and we must establish these security zones by those dates. We lack sufficient time to solicit comments and review prior to issuing a final action.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date would be impracticable because action is needed starting November 15, 2023, to provide for the protection of high-ranking government officials, members of their official party, and the security of harbors, ports, and waterfront facilities, and the mitigation of subversive acts.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70051 and 70124. The Captain of the Port San Francisco (COTP) has determined that high-ranking government officials and members of their official party plan to visit the San Francisco area and will be in the areas of

San Francisco Pier 15/17, and the Legion of Honor. These are located adjacent to U.S. navigable waters in the San Francisco COTP Zone. This rule is needed to ensure the safety of the high-ranking government officials and members of their official party.

IV. Discussion of the Rule

This rule establishes two security zones on November 15 and November 16, 2023. These security zones will cover all navigable waters of the San Francisco Bay and Pacific Ocean, from surface to bottom, and be for the areas and times described below or as otherwise noted by Marine Information Broadcast, and will be referred to as Zones A, and B.

Zone A is a security zone along San Francisco Pier 15/17, approximately 1,000 yards from shore. Zone A will be within the area formed by connecting the following latitude and longitude points in the following order: 37°48'29.13" N, 122°24'10.27" W; thence to 37°48'34.68" N, 122°24'3.44" W; thence to 37°48'39.4" N, 122°23'47.2" W; thence to 37°48'28.4" N, 122°23'19.04" W; thence to 37°48'9.85" N, 122°23'10.34" W; thence to 37°47'47.89" N, 122°23'41.35" W; thence along the shore and piers to the point of beginning. This zone will be in effect from 6 a.m. through 11:59 p.m. on November 15, 2023.

Zone B is a security zone along the Legion of Honor in the San Francisco Bay, approximately 450 yards from shore. Zone B will be within the area formed by connecting the following latitude and longitude points in the following order: 37°47'17.72" N, 122°30'21.74" W; thence to 37°47'30.86" N, 122°30'13.6" W; thence to 37°47'30.87" N, 122°29'54.91" W; thence to 37°47'14.68" N, 122°29'45.43" W; thence along the shore to the point of beginning. This zone will be in effect from 8 a.m. until 9 p.m. on November 16, 2023.

The duration of these zones is intended to protect the harbors, ports, and waterfront facilities during the high-ranking government officials' visit to the local area and to ensure the safety of the official party. No vessel or person will be permitted to enter the security zones except for authorized support vessels, aircraft, and support personnel, or other vessels authorized by the COTP or a designated representative.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the sizes, locations, and durations of the security zones. The effect of this rule will not be significant because local waterways users will be notified by marine information broadcast and on-scene enforcement to ensure the security zones will result in minimum impact. Additionally, vessels can request permission to transit the security zones in order to mitigate any potential impacts.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the security zones may be small entities, for the reasons stated in section V.A above, this rule will not have a significant

economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a

substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal Government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves security zones in effect during a period of two days in various locations, that will be enforced for less than 30 hours during those two days. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the

safety or security of people, places, or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

2. Add § 165.T11-145 to read as follows:

§ 165.T11-145 Security Zones: San Francisco Bay and Pacific Ocean, San Francisco, CA.

(a) *Location.* The following areas are security zones. These security zones will cover all navigable waters of the San Francisco Bay and Pacific Ocean, from surface to bottom, within the areas described below. All coordinates are based on North American datum (NAD 83). (1) Zone A will be within the area formed by connecting the following latitude and longitude points in the following order: 37°48'29.13" N, 122°24'10.27" W; thence to 37°48'34.68" N, 122°24'3.44" W; thence to 37°48'39.4" N, 122°23'47.2" W; thence to 37°48'28.4" N, 122°23'19.04" W; thence to 37°48'9.85" N, 122°23'10.34" W; thence to 37°47'47.89" N, 122°23'41.35" W; thence along the shore and piers to the point of beginning.

(2) Zone B will be within the area formed by connecting the following latitude and longitude points in the following order: 37°47'17.72" N, 122°30'21.74" W; thence to 37°47'30.86" N, 122°30'13.6" W; thence to 37°47'30.87" N, 122°29'54.91" W; thence to 37°47'14.68" N, 122°29'45.43" W; thence along the shore to the point of beginning.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a

Coast Guard vessel, and a Federal, State, or local officer designated by or assisting the Captain of the Port (COTP) San Francisco in the enforcement of the security zones.

(c) *Regulations.* (1) Under the general security zone regulations in subpart D of this part, you may not enter the security zones described in paragraph (a) of the sections unless authorized by the COTP or the COTP's designated representative.

(2) The security zones are closed to all vessel traffic, except as may be permitted by the COTP or a designated representative.

(3) To seek permission to enter, contact the COTP or the COTP's designated representative by VHF Marine Radio channel 21A or through the 24-hour Command Center at telephone (415) 399-3547. Those in the security zones must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced on the dates November 15, 2023, through November 16, 2023, at the times listed below or otherwise noted by Marine Information Broadcast. (1) Zone A will be enforced from 6 a.m. until 11:59 p.m. on November 15, 2023.

(2) Zone B will be enforced from 8 a.m. until 9 p.m. on November 16, 2023.

Dated: November 4, 2023.

Taylor Q. Lam,
Captain, U.S. Coast Guard,
Captain of the Port Sector San Francisco.

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